IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 18426 of 2007(R)

PETITIONER:

SOMASEKHARA PILLAI, S/O. RAGHAVA PILLAI,
PEZHOOR THEKKATHIL VEEDU, KOIKKAL MURI,
KIZHAKKE KALLADA, KOLLAM.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS:
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1. **DISTRICT SUPERINTENDENT OF POLICE,**
   KOLLAM DISTRICT, KOLLAM.

2. **THE SUB INSPECTOR OF POLICE,**
   KIZHAKKEKKALLADA POLICE STATION, KOLLAM.

3. **KESAVAN,**
   CHERUMOOZHIKKAL, KIZHAKKE KALLADA, KOLLAM.

4. **THANKAMMA, W/O. KESAVAN,**
   CHERUMOOZHIKKAL, KIZHAKKE KALLADA, KOLLAM.

5. **UNNI, S/O. KESAVAN,**
   CHERUMOOZHIKKAL, KOIKKAL MURI, KIZHAKKE KALLADA,
   KOLLAM.

6. **VINAYAN, S/O. KESAVAN,**
   CHERUMOOZHIKKAL, KOIKKAL MURI, KIZHAKKE KALLADA,
   KOLLAM.

7. **JAYAN @ KANNAPPAN, S/O. KESAVAN,**
   CHERUMOOZHIKKAL, KOIKKAL MURI, KIZHAKKE KALLADA,
   KOLLAM.

BY GOVERNMENT PLEADER SRI. R. LAKSHMI NARAYANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.18426/2007R

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE CHELLAN RECEIPT.**

EXT.P2: **COPY OF THE NOTICE.**

EXT.P3: **COPY OF THE PETITION WITH THE ORDER NO.10476/07/MS DTD. 27/02/2007.**

EXT.P4: **PHOTOGRAPH SHOWING THE BATH ROOM AND THE CONCRETE WALL ON THE NORTHERN SIDE OF THE PROPERTY OF THE PETITIONER.**

EXT.P5: **PHOTOGRAPH OF THE COMPOUND WALL ON THE SOUTHERN BOUNDARY OF THE PROPERTY.**

EXT.P6: **COPY OF THE ORDER DTD. 27/01/2007.**

EXT.P7: **COPY OF THE ORDER DTD. 07/03/2007.**

EXT.P8: **COPY OF THE JUDGMENT DTD. 27/03/2007.**

EXT.P9: **COPY OF THE ORDER RDO DTD. 02/05/2007.**

EXT.P10: **COPY OF THE F I R.**

EXT.P11: **COPY OF THE PETITION DTD. 04/06/2007.**

/TRUE COPY/

P.S.TO JUDGE

KSS

K. BALAKRISHNAN NAIR & HARUN-UL-RASHID, JJ.

W.P.(C) No.18426 of 2007 - R

Dated, this the 24th day of August, 2007

JUDGMENT

Balakrishnan Nair, J.

The petitioner is the owner of 52 cents of land in Kizhakke Kallada village. It is bounded by well-defined boundaries, it is submitted. The respondents Nos.3 to 7 are his neighbours. They are having other pathways to reach the nearby public roads. But they claimed a right of way through the petitioner's property. They moved the RDO. Under the impression that the pathway is a public pathway, the RDO passed a preliminary order directing the Sub Inspector of Police to remove a concrete slab, the petitioner submits. Based on the preliminary order, the petitioner submits, the concrete slab erected by the petitioner as part of the compound wall was removed. Later, the matter was finally heard. The RDO found that the pathway is not a public pathway. Since he has no jurisdiction to proceed with the matter further, the proceedings were closed by Ext.P9 order vacating the preliminary order. Petitioner submits, he wants to put back the slab removed pursuant to the preliminary order of the RDO and for that he requires police protection.

2. From the materials produced in this petition, it would appear that the contesting respondents are claiming right of way through the petitioner's property. Though the petitioner vehemently disputes their claim, it is not a matter which can be decided by this court or by the police.

Only the civil court can take a decision in the matter. But the learned counsel for the petitioner submits that the RDO should have issued appropriate orders to put back the slab which was removed pursuant to his preliminary order. If that be so, the petitioner may move the RDO for appropriate reliefs in that regard. Subject to that observation, the writ petition is closed.

K. BALAKRISHNAN NAIR
JUDGE

HARUN-UL-RASHID,
JUDGE.

mt/